

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SUSIE ZAPATA and MONICA
GARCIA,

EXHIBIT
9

Plaintiffs,

vs.

Case No.
1:21-cv-00083-MV-JFR

LEON MARTINEZ, ROBERTA
LUCERO-ORTEGA, ARTHUR
SANCHEZ, BERLEEN ESTEVAN,
and SUMMIT FOOD SERVICE,
LLC,

Defendants.

_____ /

VIDEOTAPED ZOOM DEPOSITION OF ROBERTA LUCERO-ORTEGA

Monday, March 21, 2022

Albuquerque, New Mexico

PURSUANT TO THE NEW MEXICO RULES OF CIVIL
PROCEDURE, this deposition was:

TAKEN BY: STEVEN ROBERT ALLEN
ATTORNEYS FOR PLAINTIFFS

REPORTED BY: TERI WARD, RPR, CCR #549
PAUL BACA COURT REPORTERS
500 4th Street, Suite 105
Albuquerque, New Mexico 87102

<p style="text-align: right;">Page 78</p> <p>1 walls in the kitchen?</p> <p>2 A. No.</p> <p>3 Q. You never had a discussion with anyone</p> <p>4 about that?</p> <p>5 A. Not that I recall. Breeding in the</p> <p>6 walls, no.</p> <p>7 Q. Breeding, right? That there were rodent</p> <p>8 nests in the walls and that's where the rodents were</p> <p>9 coming from?</p> <p>10 A. I do not recall a conversation about</p> <p>11 that, no.</p> <p>12 Q. Okay. When you mentioned they were</p> <p>13 potentially coming down vents, was there a specific</p> <p>14 vent in the kitchen that they -- the rodents were</p> <p>15 regularly seen coming and going from?</p> <p>16 MS. MOULTON: Objection to form.</p> <p>17 THE WITNESS: I don't recall specific</p> <p>18 vents where people saw them coming and going. I</p> <p>19 remember the discussion about the possibility of</p> <p>20 them coming in through the vents as speculation. I</p> <p>21 don't recall anyone saying that they saw them coming</p> <p>22 and going.</p> <p>23 BY MR. ALLEN:</p> <p>24 Q. Okay. When you were making your weekly</p> <p>25 rounds, did you interact with inmates in the</p>	<p style="text-align: right;">Page 80</p> <p>1 MS. PULLEN: Yep.</p> <p>2 MR. ALLEN: Okay. See you all then.</p> <p>3 (A luncheon recess was taken at</p> <p>4 12:33 P.M.)</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 79</p> <p>1 kitchen?</p> <p>2 A. Sometimes. Usually, they were busy</p> <p>3 working, but, yeah.</p> <p>4 Q. Did you ever have a chance to talk to</p> <p>5 them about the cleanliness of the kitchen, for</p> <p>6 example, or the presence of rodents in the kitchen?</p> <p>7 MS. PULLEN: Objection to form.</p> <p>8 THE WITNESS: Not that I can recall, no.</p> <p>9 BY MR. ALLEN:</p> <p>10 Q. Do you ever recall any inmates raising</p> <p>11 concerns about the presence of rodents when it came</p> <p>12 to food service? And what I'm specifically</p> <p>13 wondering is inmates that worked in the kitchen, did</p> <p>14 any of them raise concerns for you about the</p> <p>15 presence of rodents and its impact on food service?</p> <p>16 A. No. I don't recall any conversations</p> <p>17 with inmates about rodents and its impact on food</p> <p>18 service. No.</p> <p>19 Q. Okay.</p> <p>20 MR. ALLEN: I am wondering -- looking at</p> <p>21 the clock how -- if now is a good time to take maybe</p> <p>22 a half hour break. Does that work for folks? If we</p> <p>23 could come back at maybe 1:05, and we could continue</p> <p>24 from there.</p> <p>25 MS. MOULTON: Sounds good to me.</p>	<p style="text-align: right;">Page 81</p> <p>1 ALBUQUERQUE, NEW MEXICO, MONDAY, MARCH 21, 2022</p> <p>2 AFTER LUNCH</p> <p>3 -ooo-</p> <p>4</p> <p>5 EXAMINATION (Resumed)</p> <p>6 BY MR. ALLEN:</p> <p>7 Q. Let's see. I wanted to ask you about</p> <p>8 the pest control company that was doing some work at</p> <p>9 Western. Are you familiar with PDI?</p> <p>10 A. No.</p> <p>11 Q. Did you ever talk with Mr. Sanchez about</p> <p>12 PDI?</p> <p>13 A. No.</p> <p>14 Q. Do you know if they were doing pest</p> <p>15 control work while you were a warden at Western?</p> <p>16 A. Probably. I don't recall who the</p> <p>17 company was that was doing the pest control, to be</p> <p>18 honest with you.</p> <p>19 Q. Do you recall that there was a company</p> <p>20 doing pest control while you were warden?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Did you ever have a conversation</p> <p>23 with Mr. Sanchez or one of your deputy wardens about</p> <p>24 the quality of the pest control services being</p> <p>25 offered by that company?</p>

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1 A. No, I don't -- I don't recall any
 2 conversation about the quality of the pest control.
 3 No.
 4 Q. Okay. Did you ever talk with
 5 Mr. Sanchez about the bidding process for selecting
 6 that company?
 7 A. No.
 8 Q. Okay. Did you ever talk with
 9 Mr. Sanchez about potentially selecting another
 10 company to provide pest services?
 11 A. No.
 12 Q. Okay. Let's -- let's jump to this next
 13 exhibit, Exhibit No. 5, and I'm going to share my
 14 screen again.
 15 (Exhibit 5 was marked for
 16 identification.)
 17 BY MR. ALLEN:
 18 Q. Let's see if this works. How's that?
 19 Can you see that?
 20 A. Yes.
 21 Q. Okay. Have you seen these inspection
 22 reports before?
 23 A. Yeah, probably.
 24 Q. Do you ever recall speaking with any of
 25 your direct reports about these food establishment

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1 took a couple months break and then started a
 2 position at MDC; is that correct?
 3 A. Yes.
 4 Q. Let me see. Okay. There's a bunch in
 5 here. Can you read the date in the bottom right
 6 corner of this form?
 7 A. January -- which one. January 10th, '18
 8 or January 31st?
 9 Q. Either. Just trying to establish that
 10 this was in January of 2018. You were moving at
 11 this time, correct?
 12 A. Okay.
 13 Q. And let me see here. Do you see under
 14 the box at the bottom it says: Good retail
 15 practices in the gray bar there? Do you see that?
 16 A. Where are you at? Oh, yes.
 17 Q. Okay. And in the, sort of, white frame
 18 under that on the left-hand side of the form it
 19 says, Mark X. And can you read what that means if
 20 an X is marked.
 21 A. Mark X in an appropriate box for COS
 22 and/or R. That?
 23 Q. No, I'm sorry, in the text on the far
 24 left where it says: Mark X in box.
 25 A. If number is not in compliance.

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1 inspection reports?
 2 A. No.
 3 Q. So neither Ms. Garcia nor Mr. Sanchez
 4 ever spoke to you about the findings in these
 5 reports?
 6 MS. MOULTON: Object to form.
 7 Foundation.
 8 BY MR. ALLEN:
 9 Q. That you recall.
 10 A. I don't recall any conversations with
 11 Nicole Garcia or Mr. Sanchez, but I'm not their
 12 direct report. So they may have had conversation
 13 with the deputy wardens.
 14 Q. Okay. And I think what you're saying is
 15 you also don't recall either of your deputy wardens
 16 discussing these food establishment inspection
 17 reports with you?
 18 A. No.
 19 Q. Okay. Let me see, I'm going to skip
 20 down to dates to when you were actually there. By
 21 January of 2019, I believe you had finished your
 22 employment as warden at Western; is that correct?
 23 A. Yes. My retirement date was December
 24 31st of 2018.
 25 Q. Okay. And then it sounds like maybe you

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1 Q. Correct. And so there's -- there's only
 2 two boxes marked on this form. And tell me which
 3 boxes those are. Could you read those out loud?
 4 A. Insects, rodents and animals not
 5 present, physical facility installed, maintained and
 6 cleaned.
 7 Q. Okay. I believe what this means is that
 8 the inspector was marking Western for being out of
 9 compliance because there were pests present. Do you
 10 agree with that?
 11 MS. MOULTON: Objection to form.
 12 MS. PULLEN: Same objection.
 13 THE WITNESS: I can't speak for the
 14 company, but it would appear that that was the
 15 company's intent, yes.
 16 BY MR. ALLEN:
 17 Q. Okay. And that the other box is marked
 18 out of compliance because of the physical facility.
 19 There's something regarding installation,
 20 maintenance, and cleanliness of the physical
 21 facility, that was also marked out of compliance.
 22 Would you agree with that?
 23 A. Yes.
 24 Q. Okay. Let's scroll down here. Can you
 25 read the written text next to item number 39.

22 (Pages 82 to 85)